

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Department of Law & Judiciary

Legal Affairs Division

Notification

7/31/2001-LA

The Goa Public Health (Amendment) Act, 2001 (Goa Act 47 of 2001), which has been passed by the Legislative Assembly of Goa on 29-3-2001 and assented to by the Governor of Goa on 29-6-2001 is hereby published for general information of the public.

S. G. Marathe, Under Secretary (Drafting).

Panaji, 10th July, 2001.

The Goa Public Health (Amendment) Act, 2001

(Goa Act 47 of 2001) [29-6-2001]

AN ACT

further to amend the Goa, Daman and Diu Public Health Act, 1985 (Act No. 25 of 1985).

BE it enacted by the Legislative Assembly of Goa in the Fifty-second Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Public Health (Amendment) Act, 2001.

(2) It shall come into force at once.

2. *Amendment of section 2.*— In section 2 of the Goa, Daman and Diu Public Health Act, 1985 (Act 25 of 1985) (hereinafter referred to as the "principal Act"),—

(i) After clause (20), the following clause shall be inserted, namely:—

"(20-A) "migrant labourer" means any person from a State other than the State of Goa, employed in or in connection with the work of any establishment, to do any skilled or semi-skilled or unskilled, manual, supervisory, technical or clerical work, for hire or reward, whether in terms of employment, express or implied, by or through a contractor, in relation to such establishment.";

(ii) in clause (22), after the words "use any public right," the following expression shall be inserted, namely:—

"and also includes any water collection in which, in the opinion of the Health Officer, mosquitoes breed or are likely to breed, unless such collection of water has been treated effectively to prevent such breeding."

3. *Amendment of section 29.*— For section 29 of the principal Act, the following section shall be substituted, namely:—

"29.—*Establishment of commercial, industrial and other establishments and constructions.*—

(1) No person shall construct any building, house, cess pool and any other structure unless prior permission to that effect is obtained from the Health Officer or the Medical Officer in

charge of the respective Health Centre, at the time of starting such construction and also at the time of actually occupying such constructed premises.

(2) No commercial or industrial establishments, warehouses, storehouses, factories, workshops or any other establishments of any kind, shall be established, without obtaining the prior permission from the Director.

(3) All such permissions issued shall be subject to the payment of such fees as may be notified by the Government from time to time".

4. *Amendment of section 40.*--- For section 40 of the principal Act, the following section shall be substituted, namely:—

"40. *Power of Health Officer to abate nuisance.*— (1) If the Health Officer is satisfied, whether upon information received under section 39 or otherwise, of the existence of a nuisance, he shall be duty bound to issue a notice, within a period of seven days from the date of receipt of such information or date of knowledge of the existence of such nuisance, as the case may be, requiring the person who is responsible for such nuisance or by whose act, default or sufferance or thing the nuisance arises or continues, and/or if that person cannot be found, the owner or occupier of the premises in respect of which the nuisance arises or continues, to abate the nuisance and to execute such works and take such steps as may be necessary for that purpose, within a period as may be fixed in the notice, not exceeding sixty days in any case:

Provided that, the Health Officer, for reasons to be recorded in writing, and upon the application in writing by such person to whom such notice is issued, may extend the period specified in such notice, by a further period of fifteen days, in the facts and circumstances of the case.

(2) The officer-in-charge of the Police station of the area concerned shall be duty bound and responsible, when called upon by the concerned Health Officer or such other officer as authorised by the Directorate of Health Services, to provide necessary police protection for removal and/or to ensure removal of such nuisance and shall also provide all possible

assistance for removal of such nuisance. The officer-in-charge of the police station, shall be answerable and responsible for non-compliance of the requisition made by the Health Officer or by such other person as specified in this sub-section.

(3) The directions as contained in the notice under sub-section (1) shall have effect, notwithstanding anything contained in any other law for the time being in force or any custom or usage or decree or order of a Court, or any agreement or contract, express or implied, as far as they are not inconsistent with the provisions of this section.

(4) The issuance of the notice under sub-section (1) to a person, as an occupier of any premises, shall not create any legal right, title or interest in such person, in respect of such premises, if such person is not the owner of such premises as the notice issued is only for creating the liability of abatement of nuisance or execution of any work or to take such steps as may be directed under sub-section (1).

(5) If any person, owner or occupier of any premises, to whom a notice is issued by the Health Officer under sub-section (1), fails to comply with the directions given therein, within the specified period or within the extended period, as the case may be, the Health Officer shall himself execute any work or take such steps, which he may consider necessary, to abate the nuisance and to prevent the recurrence thereof:

Provided that, any expenses incurred or loss suffered on account of execution of any work or steps taken by the Health Officer, for abatement of nuisance under this sub-section, shall be recovered from the person to whom the notice under sub-section (1) was issued, as arrears of land revenue.

(6) The failure to comply with the directions contained in the notice issued under sub-section (1) shall be cognizable offence, punishable with simple imprisonment for a term which may extend to 30 days or with fine which may extend to Rs. 5000/-, or with both:

Provided that the said offence may be compounded by the Health Officer, if the offender agrees to pay a fine of Rs. 3,500/-.

(7) In case of any nuisance arising in respect of the premises belonging to the Government, the officer-in-charge of the said premises or Head of office, as the case may be, shall be liable personally to be issued a notice under sub-section (1) as also for the penalty specified in sub-section (6):

Provided that if the Health Officer himself is the officer-in-charge of such premises or Head of office, the provisions of sub-section (1) shall not be applicable to him although he shall be duty bound and liable to abate the nuisance within a period of eight days from the date of knowledge of the existence of nuisance.

(8) If the Health Officer, after receiving the information of any nuisance, either under section 39 or upon his own knowledge, intentionally or deliberately, fails or neglects, to take any action as provided for, in sub-section (1), (5) or (7) as the case may be, within the period specified thereto, he shall be liable for payment of fine at the rate of at least Rs. 50/- per day and which may extend to Rs. 5000/-, upon conviction by the Judicial

Magistrate First Class, after a complaint in that regard is filed by any person aggrieved by a nuisance."

5. *Amendment of section 108.*— In section 108 of the principal Act, for the words "may arrest", the words "shall arrest" shall be substituted.

6. *Insertion of new section 110-A.*— After section 110 of the principal Act, the following section shall be inserted, namely:—

"110-A. *Bar on suits and prosecutions.*— No court shall entertain any suit, application, prosecution or other proceedings in respect of any order, decision, direction or notice issued by any authority under this Act and no such order, decision, direction or notice issued shall be called in question otherwise than by preferring an appeal as provided under this Act."

Secretariat Annexe,
Panaji.
Dated: 10-7-2001.

V. P. Shetye,
Secretary to the
Government of Goa,
Law Department (Legal Affairs).